

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PIERRE GIORDANI,

Plaintiff,

-against-

**SECOND AMENDED
COMPLAINT**

METROPOLITAN TRANSPORTATION AUTHORITY,
METROPOLITAN TRANSPORTATION AUTHORITY
POLICE OFFICER LEYLAND CROCILLA,
METROPOLITAN TRANSPORTATION AUTHORITY
POLICE OFFICER TODD WENDEL,

09 CV 0027 (RRM) (SMG)

Jury Trial Demanded

Defendants.

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PRELIMINARY STATEMENT

1. This is an action brought pursuant to 42 U.S.C. § 1983 alleging civil rights violations by the Metropolitan Transportation Authority (“MTA”) and two MTA Police Officers. Plaintiff alleges that, on October 13, 2008, MTA Police Officers Leyland Crocilla and Todd Wendel arrested him without cause, used excessive force on him, illegally strip searched him, and presented false evidence against him in violation of the Fourth, Sixth and Fourteenth Amendments to the United States Constitution. Plaintiff seeks compensatory and punitive damages, an award of attorney’s fees and costs, and such other and further relief as the court deems just and proper.

JURISDICTION & VENUE

2. This action is brought pursuant to 42 U.S.C. § 1983 and the Fourth, Sixth and Fourteenth Amendments to the United States Constitution. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. § 1391(b) and (c).

PARTIES

4. Plaintiff is a resident of the State of New York, County of Queens. On the date of his arrest, plaintiff was employed as an Emergency Medical Technician.

5. The MTA is a public benefit corporation chartered by the State of New York responsible for providing public transportation in the State of New York.

6. MTA Officers Leyland Crocilla and Todd Wendel are members of the MTA Police Department who were involved in the arrest of plaintiff and the events arising out of plaintiff's arrest. These officers were acting under color of state law and in their capacities as MTA officers at all relevant times herein. The officers are liable for directly participating in the unlawful acts described herein and for failing to intervene to protect plaintiff from unconstitutional conduct. Officers Crocilla and Wendel are sued in their individual capacities.

STATEMENT OF FACTS

7. On October 13, 2008, at approximately 8:15 p.m., plaintiff was walking from his residence in Queens to a deli located on the corner of Sutphin and Archer Avenues to purchase a telephone calling card.

8. When plaintiff was near the deli, he was stopped by MTA Police Officers Leyland Crocilla and Todd Wendel.

9. Officer Crocilla ordered plaintiff to show his drivers license.

10. Plaintiff asked Officer Crocilla the reason why he had to produce his license as he had done nothing wrong.

11. Officer Crocilla responded by arresting plaintiff without probable cause.

12. Officer Wendel handcuffed plaintiff excessively tight to punish plaintiff for asserting his rights.

13. Plaintiff screamed that the handcuffs were painfully tight.

14. Plaintiff asked both officers to loosen the cuffs, but the officers did not respond to plaintiff's request.

15. After arresting plaintiff, Officers Crocilla and Wendel used profanity toward plaintiff and told him in sum and substance that "the next time an officer asks you for something, you give it to him."

16. Officers Crocilla and Wendel searched plaintiff.

17. The officers found and confiscated plaintiff's Emergency Medical Technician badge.

18. An unidentified police sergeant arrived on the scene and told the officers to charge plaintiff with a felony so he will be unable to vote for that "retarded Obama."

19. Plaintiff was taken to an unknown precinct.

20. Shortly after arriving at the precinct, Officers Crocilla and Wendel strip searched plaintiff down to his underwear.

21. The aforesaid strip search was illegal because the officers lacked reasonable suspicion to believe that plaintiff was hiding illegal contraband.

22. After the strip search, plaintiff was placed in a cell.

23. While plaintiff was in the cell, Officer Crocilla, in furtherance of a conspiracy with Officer Wendel to charge plaintiff with crimes that he did not commit, prepared police reports which falsely stated that plaintiff had engaged in disorderly conduct, had possessed a forged badge, and had operated a car for hire without a taxi license.

24. At approximately 11:45 p.m., two unidentified officers took plaintiff to Queens Central Booking.

25. The officers made jokes about Barack Obama to antagonize plaintiff during the ride to central booking.

26. While plaintiff was confined in Queens Central Booking, under deplorable conditions, Officer Crocilla, in furtherance of a conspiracy with Officer Wendel to charge plaintiff with crimes that he did not commit, misrepresented to the Queens County District Attorney's Office that plaintiff had engaged in disorderly conduct, had possessed a forged badge, and had operated a car for hire without a taxi license.

27. Officer Crocilla's misrepresentations caused false misdemeanor charges to be filed against plaintiff.

28. On October 14, 2008, at approximately 3:15 p.m., plaintiff was arraigned in Criminal Court, Queens County.

29. The criminal charges were adjourned in contemplation of dismissal.

30. Plaintiff suffered damage as a result of defendants' actions. Plaintiff suffered a loss of liberty, damage to reputation, emotional distress, mental anguish, fear, anxiety, humiliation, embarrassment, and pain and swelling from the tight handcuffs. Plaintiff's wrists were swollen for a couple of days after his arrest.

**PLAINTIFF'S FEDERAL CLAIMS AGAINST
MTA POLICE OFFICERS LEYLAND
CROCILLA AND TODD WENDEL**

31. Plaintiff repeats the foregoing allegations.

32. The conduct of MTA Officers Leyland Crocilla and Todd Wendel, as described herein, amounted to false arrest, excessive force, an illegal strip search, and fabrication

of evidence in violation of 42 U.S.C. § 1983 and the Fourth, Sixth and Fourteenth Amendments to the United States Constitution.

**PLAINTIFF'S FEDERAL CLAIM AGAINST
THE MTA**

33. Plaintiff repeats the foregoing allegations.

34. The MTA directly caused the constitutional violations suffered by plaintiff.

35. Upon information and belief, the MTA, at all relevant times, was aware that MTA Officers Crocilla and Wendel are unfit officers who have the propensity to commit the acts alleged herein. Nevertheless, the MTA exercised deliberate indifference by failing to take remedial action. The MTA failed to properly train, retrain, supervise, discipline, and monitor the officers and improperly retained and utilized them. Moreover, upon information and belief, the MTA failed to adequately investigate prior complaints filed against the officers.

36. The aforesaid conduct by the MTA violated plaintiff's rights under 42 U.S.C. § 1983 and the Fourth, Sixth and Fourteenth Amendments to the United States Constitution.

WHEREFORE, plaintiff demands a jury trial and the following relief jointly and severally against the defendants:

- a. Compensatory damages in an amount to be determined by a jury;
- b. Punitive damages in an amount to be determined by a jury;
- c. Attorney's fees and costs;
- d. Such other and further relief as this Court may deem just and proper.

DATED: June 3, 2009
Brooklyn, New York

/s/

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